

No. 07-1732

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**FILED**

JAN 22 2008

LEONARD GREEN, Clerk

DENNIS ELLIOTT,

Petitioner-Appellant,

v.

KENNETH ROMANOWSKI, Warden,

Respondent-Appellee.

ORDER

**FILED**  
JAN 28 2008  
CLERK'S OFFICE  
DETROIT

Dennis Elliott, a Michigan prisoner proceeding pro se, appeals a district court's order denying his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Elliott's notice of appeal has been construed as an application for a certificate of appealability with this court. *See* Fed. R. App. P. 22(b).

In 2002, a Michigan jury convicted Elliott of first-degree murder in violation of Mich. Comp. Laws § 750.316 and possession of a firearm during the commission of a felony in violation of Mich. Comp. Laws § 750.227b. He was sentenced to consecutive terms of life imprisonment without parole for the murder conviction and two years' imprisonment for the felony-firearm conviction. The trial court denied his subsequent motion for a new trial. The Michigan Court of Appeals affirmed his conviction and sentence and the Michigan Supreme Court denied his application for leave to appeal.

Petitioner filed his federal habeas petition on October 25, 2005, raising the following grounds:

- I. The trial court abused its discretion when it denied his motion for a new trial.

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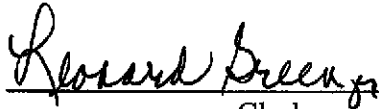
- 2 -

- II. The evidence presented at trial was insufficient to convict him of first-degree murder.
- III. The prosecution's closing arguments improperly shifted the burden of proof, attacked the defense counsel, and expressed personal belief that the petitioner was guilty.

The district court denied the petition on May 7, 2007, holding that Elliott's first two claims lacked merit and that Elliott procedurally defaulted the third claim. The district court also issued an order denying Elliott a certificate of appealability.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *cf. Barefoot v. Estelle*, 463 U.S. 880, 893 (1983). Elliott has not made such a showing and therefore his application for a certificate of appealability is denied.

ENTERED BY ORDER OF THE COURT

  
Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Leonard Green  
Clerk

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Filed: January 22, 2008

Dennis Elliott  
Macomb Correctional Facility  
34625 26 Mile Road  
New Haven, MI 48048

**Re: No. 07-1732, *Elliott v. Romanowski*  
Originating Case No. 05-74085**

Dear Counsel,

The Court issued the enclosed (Order/Opinion) today in this appeal.

Sincerely yours,

s/Roy G. Ford  
Case Manager  
Direct Dial No. 513-564-7016  
Fax No. 513-564-7096  
CA06-Team1@ca6.uscourts.gov

cc: Honorable Nancy G. Edmunds  
Mr. Brian O. Neill  
Mr. B. Eric Restuccia  
Mr. David J. Weaver

Enclosure